

HANSON BRIDGETT MARCUS VLAHOS & RUDY, LLP
JOHN J. VLAHOS - 32673
KIMON MANOLIUS - 154971
THOMAS B. BROWN - 104254
JAHMAL T. DAVIS - 191504
JULIA H. VEIT - 209207
425 Market Street, 26th Floor
San Francisco, CA 94105-2173
Telephone: (415) 777-3200
Facsimile: (415) 541-9366
jveit@hansonbridgett.com

Attorneys for Defendant/Cross-Defendant/Cross-Complainant
GOLDEN GATE BRIDGE HIGHWAY AND
TRANSPORTATION DISTRICT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID R. PECK, TRUSTEE OF THE
TAMALPAIS PROPERTY TRUST,

Plaintiff,

v.

PER BESSING, ANTON C. POGANY,
JEAN C. POGANY, EDWARD J.
FOTSCH, LINDA N. FOTSCH, GOLDEN
GATE NATIONAL RECREATION
AREA, NATIONAL PARK SERVICE,
GOLDEN GATE BRIDGE AND
HIGHWAY DISTRICT and DOES ONE
through THIRTY,

Defendants.

No. C 05 0960 SC

**STIPULATION AND ~~PROPOSED~~—
ORDER RE: VOLUNTARY DISMISSAL
PURSUANT TO F.R.C.P. 41(a)(1)(ii)**

Trial Date: June 19, 2006

AND RELATED CROSS-ACTIONS.

The Parties, through their counsel, hereby STIPULATE AND AGREE to Voluntary Dismissal of Defendant/Cross-Defendant/Cross-Complainant Golden Gate Bridge, Highway and Transportation District ("District") and the Defendant/Cross-Defendant Golden Gate National Recreation Area, National Park Service ("GGNRA") pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) as follows:

1 **I. RECITALS**

2 WHEREAS Plaintiff David R. Peck, Trustee of the Tamalpais Property Trust ("Plaintiff"),
 3 filed a Complaint against all defendants referenced above on March 7, 2002. Plaintiff, through
 4 designated counsel, hereby stipulates and agrees to dismiss the Complaint against the District.
 5 Plaintiff has no complaint against the GGNRA. In addition, Plaintiff stipulates and agrees to the
 6 dismissal of all other Cross-Complaints pending against the District and the GGNRA with
 7 prejudice;

8 WHEREAS Defendant/Cross-Defendant Per Bessing ("Bessing"), through designated
 9 counsel, has no cross-claim against the District or the GGNRA. Bessing stipulates and agrees to
 10 the dismissal of Plaintiff's Complaint against the District and to the dismissal of all other Cross-
 11 Complaints pending against the District and the GGNRA with prejudice;

12 WHEREAS, Defendants/Cross-Defendants/Cross-Complainants Edward J. Fotsch, Linda
 13 N. Fotsch ("Fotsch Defendants") filed a Cross-Complaint against the District and the GGNRA for
 14 equitable indemnity on September 16, 2005. The Fotsch Defendants, through designated counsel,
 15 stipulate and agree to dismiss their respective Cross-Complaints against the District and against
 16 the GGNRA with prejudice. In addition, the Fotsch Defendants stipulate and agree to the
 17 dismissal of Plaintiff's Complaint against the District and to the dismissal of all other Cross-
 18 Complaints pending against the District and the GGNRA with prejudice;

19 WHEREAS, Defendants/Cross-Defendants/Cross-Complainants Anton C. Pogany and
 20 Jean C. Pogany ("Pogany Defendants") filed a Cross-Complaint against the District and the
 21 GGNRA for equitable indemnity on December 2, 2005. The Pogany Defendants, through
 22 designated counsel, stipulate and agree to dismiss their respective Cross-Complaints against the
 23 District and against the GGNRA with prejudice. In addition, the Pogany Defendants stipulate and
 24 agree to the dismissal of Plaintiff's Complaint against the District and to the dismissal of all other
 25 Cross-Complaints pending against the District and the GGNRA with prejudice;

26 WHEREAS the GGNRA filed a Cross-Complaint against the District for contractual
 27 indemnity on December 8, 2005. The GGNRA, through designated counsel, stipulates and agrees
 28 to dismiss its Cross-Complaint against the District. In addition, the GGNRA agrees to the

dismissal of Plaintiff's Complaint against the District and to the dismissal of all other Cross-Complaints pending against the District and the GGNRA with prejudice;

WHEREAS the District filed Cross-Complaints against all co-defendants, Bessing, the Fotsch Defendants, the Pogany Defendants and the GGNRA, for equitable indemnity on October 4, 2005. The District, through designated counsel, stipulates and agrees to dismiss all of the referenced cross-complaints with prejudice. In addition, the District stipulates and agrees to the dismissal of all Cross-Complaints pending against the GGNRA with prejudice.

II. STIPULATION

IT IS HEREBY STIPULATED by and between the parties to these actions, by Defendant/Cross-Defendant Per Bessing, Defendants/Cross-Defendants/Cross-Complainants Anton C. Pogany, Jean C. Pogany, Defendants/Cross-Defendants/Cross-Complainants Edward J. Fotsch, Linda N. Fotsch, Defendant/Cross-Defendant Golden Gate National Recreation Area, National Park Service, Defendant/Cross-Defendant/Cross-Complainant Golden Gate Bridge, Highway and Transportation District's designated counsel, and by Plaintiff David R. Peck, Trustee of the Tamalpais Property Trust's through their designated counsel, that the above-captioned action be and hereby is dismissed as to the District and GGNRA pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii).

The parties hereby stipulate and agree to the following:

1. Plaintiff hereby stipulates and agrees to dismiss the Complaint as to the District. In addition, Plaintiff stipulates and agrees to the dismissal of all other Cross-Complaints pending against the District and the GGNRA with prejudice;
2. Bessing hereby stipulates and agrees (1) to the dismissal of Plaintiff's Complaint against the District and (2) to the dismissal of all other Cross-Complaints pending against the District and the GGNRA with prejudice;
3. The Pogany Defendants hereby stipulate and agree to dismiss their respective Cross-Complaints against the District and against the GGNRA with prejudice. In addition, the Pogany Defendants stipulate and agree to (1) to the dismissal of Plaintiff's Complaint against the District and (2) to the dismissal of all other Cross-Complaints pending against the District and the

1 GGNRA with prejudice;

2 4. The Fotsch Defendants hereby stipulate and agree to dismiss their respective
3 Cross-Complaints against the District and against the GGNRA with prejudice. In addition, the
4 Fotsch Defendants stipulate and agree (1) to the dismissal of Plaintiff's Complaint against the
5 District and (2) to the dismissal of all other Cross-Complaints pending against the District and the
6 GGNRA with prejudice;

7 5. The GGNRA hereby stipulates and agrees to dismiss its Cross-Complaint for
8 contractual indemnity against the District. In addition, the GGNRA agrees (1) to the dismissal of
9 Plaintiff's Complaint against the District and (2) to the dismissal of all other Cross-Complaints
10 pending against the District and the GGNRA with prejudice;

11 6. The District hereby stipulates and agrees to dismiss its Cross-Complaints against
12 all co-defendants, Bessing, the Pogany Defendants, the Fotsch Defendants and GGNRA, for
13 equitable indemnity with prejudice. In addition, the District stipulates and agrees to the dismissal
14 of all Cross-Complaints pending against the GGNRA with prejudice.

15 7. The parties, by signing below through counsel, and submitting this Stipulation and
16 Proposed Order Re: Voluntary Dismissal to the Court hereby acknowledge and agree that as the
17 result of this Stipulation, and upon execution of this Order, the District and the GGNRA are no
18 longer parties in to the above-captioned lawsuit in any way.

19 ////

20 ////

21 ////

22 ////

23
24 DATED: 4-28-06, 2006

25 By: 

26 John B. Keating

27 Attorney for Plaintiff

28 DAVID PECK, TRUSTEE OF THE TAMALPAIS
PROPERTY TRUST

1 DATED: 4/28/06, 2006

Hanson Bridgett Marcus Vlahos & Rudy, LLP

2
3
4 By: 

5 Kimon Manolius
6 Attorneys for Defendant/Cross-Defendant/
7 Cross-Complainant
8 GOLDEN GATE BRIDGE HIGHWAY AND
9 TRANSPORTATION DISTRICT

10 DATED: 4/28/06, 2006

11 Colombatto Klimenko, LLP

12 By: 

13 P. Richard Colombatto
14 Attorneys for Defendant/Cross-Defendant
15 PER BESSING

16 DATED: 4/28/06, 2006

17 Wilson, Elser, Moskowitz, Edelman & Dicker LLP

18 By: 

19 William Jemmott
20 Michael C. Douglass
21 Attorneys for Defendants/Cross-Defendants/Cross-
22 Complainants ANTON C. POGANY and JEAN C.
23 POGANY

24 DATED: _____, 2006

Babbitts & Walter

25 By: _____

26 Nancy Sullivan Walter
27 Attorneys for Defendants/Cross-Defendants/Cross-
28 Complainants EDWARD J. FOTSCH and LINDA
N. FOTSCH

DATED: _____, 2006

United States Attorney, Northern District of California

By: _____

Owen Peter Martikan
Attorneys for Defendant/Cross-Defendant
GOLDEN GATE NATIONAL RECREATION
AREA, NATIONAL PARK SERVICE

1 DATED: _____, 2006

Hanson Bridgett Marcus Vlahos & Rudy, LLP

4 By: _____

Kimon Manolius

Attorneys for Defendant/Cross-Defendant/
Cross-Complainant

GOLDEN GATE BRIDGE HIGHWAY AND
TRANSPORTATION DISTRICT

8 DATED: _____, 2006

Colombatto Klimenko, LLP

11 By: _____

P. Richard Colombatto

Attorneys for Defendant/Cross-Defendant
PER BESSING

13 DATED: _____, 2006

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

16 By: _____

William Jemmott

Michael C. Douglass

Attorneys for Defendants/Cross-Defendants/Cross-
Complainants ANTON C. POGANY and JEAN C.
POGANY

19 DATED: 4/28, 2006

Babbitts & Walter

21 By: Nancy Sullivan Walter

Nancy Sullivan Walter

Attorneys for Defendants/Cross-Defendants/Cross-
Complainants EDWARD J. FOTSCH and LINDA
N. FOTSCH

24 DATED: _____, 2006

United States Attorney, Northern District of California

26 By: _____

Owen Peter Martikan

Attorneys for Defendant/Cross-Defendant

GOLDEN GATE NATIONAL RECREATION
AREA, NATIONAL PARK SERVICE

1 DATED: _____, 2006

Hanson Bridgett Marcus Vlahos & Rudy, LLP

4 By: _____

5 Kimon Manolius
6 Attorneys for Defendant/Cross-Defendant/
7 Cross-Complainant
8 GOLDEN GATE BRIDGE HIGHWAY AND
9 TRANSPORTATION DISTRICT

10 DATED: _____, 2006

Colombatto Klimenko, LLP

11 By: _____

12 P. Richard Colombatto
13 Attorneys for Defendant/Cross-Defendant
14 PER BESSING

15 DATED: _____, 2006

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

16 By: _____

17 William Jemmott
18 Michael C. Douglass
19 Attorneys for Defendants/Cross-Defendants/Cross-
20 Complainants ANTON C. POGANY and JEAN C.
21 POGANY
22 Babbitts & Walter

23 DATED: _____, 2006

24 By: _____

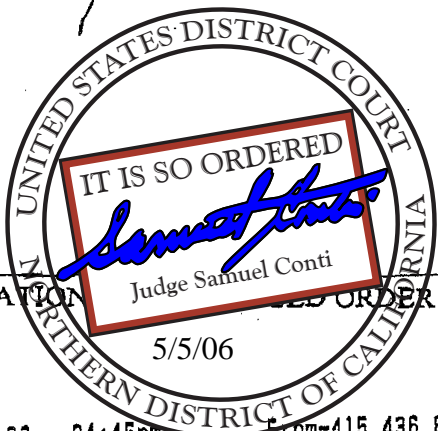
25 Nancy Sullivan Walter
26 Attorneys for Defendants/Cross-Defendants/Cross-
27 Complainants EDWARD J. FOTSCH and LINDA
28 N. FOTSCH

DATED: 5/27, 2006

United States Attorney, Northern District of California

By: _____

Owen Peter Martikan
Attorneys for Defendant/Cross-Defendant
GOLDEN GATE NATIONAL RECREATION
AREA, NATIONAL PARK SERVICE



STIPULATION ORDER OF DISMISSAL

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1250974.1

TOTAL P.02

III. ORDER

The Court hereby orders dismissal of the action pursuant to the stipulation of the parties as set forth above.

IT IS SO ORDERED.

DATED: _____, 2006

HONORABLE SAMUEL CONTI
United States District Court Judge